

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Howard W. Amos,

Civ. No. 22-2108 (JWB/DLM)

Plaintiff,

v.

**ORDER ACCEPTING  
REPORT AND RECOMMENDATIONS  
OF MAGISTRATE JUDGE**

Ryan Kelly, Chad Conner, Peng Moua,  
Dirk Spree, Ryan Miller, and Kurtis  
Schoonover, *in their individual and official  
capacities*, John Doe and Jane Doe, *in their  
individual capacities*, North Memorial  
Medical Center, *in their individual and  
official capacity*, and the City of  
Minneapolis,

Defendants.

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United States Magistrate Judge Douglas L. Micko issued Report and Recommendations on October 27, 2023 (Doc. No. 67) and on January 17, 2024 (Doc. No. 76) (collectively “the R&Rs”). No objections have been filed to the R&Rs in the time permitted. In the absence of timely objections, the R&Rs are reviewed for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996). Upon review of both R&Rs, no clear error is found.

Based on the R&Rs of the Magistrate Judge, and on all of the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The October 27, 2023 Report and Recommendation (Doc. No. 67) is **ACCEPTED**;
2. Defendant Ryan Miller is **DISMISSED WITHOUT PREJUDICE** from

this action due to Plaintiff Howard W. Amos's failure to effect timely service under Federal Rule of Civil Procedure 4(m);

3. The January 17, 2024 Report and Recommendation (Doc. No. 76) is **ACCEPTED**;
4. All claims against Defendants John Doe, Jane Doe, and North Memorial Medical Center are **DISMISSED WITHOUT PREJUDICE** due to Plaintiff's failure to prosecute under Federal Rule of Civil Procedure 41(b);
5. Defendants John Doe, Jane Doe, and North Memorial Medical Center's Motion to Dismiss (Doc. No. 39) is **DENIED AS MOOT**;
6. Defendants Ryan Kelly, Chad Conner, Peng Moua, Dirk Spee, Kurtis Schoonover, and the City of Minneapolis' Motion for Judgment on the Pleadings (Doc. No. 46) is **GRANTED**;
7. Defendants Chad Conner, Peng Moua, Dirk Spee, and the City of Minneapolis are **DISMISSED WITHOUT PREJUDICE** from this action due to Plaintiff's failure to effect timely service under Federal Rule of Civil Procedure 4(m);
8. Plaintiff's claims for assault and battery under Minnesota law are **DISMISSED WITH PREJUDICE** per Minn. Stat. § 541.07; and
9. Plaintiff's Motion to Stay the Motion for Judgment on the Pleadings (Doc. No. 68) is **DENIED**.

Date: February 26, 2024

*s/ Jerry W. Blackwell*  
JERRY W. BLACKWELL  
United States District Judge